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February 6, 2018

**Via E-mail**

Honorable Frederic Block, U.S.D.J.  
U.S District Court for the Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Barger v. First Data Corporation et al.* - Civil Action No. 1:17-cv-4869  
NOTICE OF REVISED BRIEFING SCHEDULE  
Plaintiff's Motion for Partial Judgment on the Pleadings Pursuant to Rule 12(c)

Dear Judge Block:

By letter dated February 2, 2018, the court was advised on a briefing schedule with respect to Plaintiff's Rule 12(c) Motion.

The proposed briefing scheduled has been modified in consultation with Defendants' counsel:

February 6, 2018 - Motion delivered by Plaintiff to Defendants  
February 20, 2018 - Opposition delivered by Defendants to Plaintiff  
February 27, 2018 - Reply delivered by Plaintiff to Defendants

Counsel for the Defendants has again advised Plaintiff's counsel that in the Defendants' view, matters outside the pleading are likely to be considered, the motion is likely to be converted to a motion under Rule 56, and the opposition would not be due until 14 days after the close of discovery (September 14, 2018). Counsel for the Defendants indicated that I should inform you that with respect to these revisions, they continue to object to the Plaintiff's proposed briefing schedule because good cause exists to extend the time for any opposition until after completion of discovery.

Plaintiff again disagrees with Defense counsel's assessment. Plaintiff does not believe any matters outside of the Defendants' admissions in the pleadings and the exhibits and documents attached to the pleadings are required to adjudicate liability.

Very truly yours,

/s/ Shawn E. Shearer  
*Attorney for the Plaintiff*